

ZONING BOARD OF REVIEW

Barrington, Rhode Island

July 19, 2012

APPLICATIONS: #3676, 3677, 3678, 3679, 3680, 3681, 3682 & 3683

MINUTES OF THE MEETING:

At the call of the Acting Chairman, Mark Freel the Board met with Paul Blasbalg, David Rizzolo, Ian Ridlon, and Stephen Venuti.

Also present was solicitor Andrew Teitz as well as Building Official Robert Speaker.

At 7:10 P.M. Mr. Freel opened the meeting and the Board proceeded to hear the following matters. At 11:45 P.M. the public participation portion of the meeting was closed and the Board proceeded to deliberate and vote on the applications it had heard.

Application #3676, Peter and Jenifer May, 15 Opechee Drive, Barrington, RI 02806, applicant and owner, for permission to conduct renovations and add a 23' x 24' garage, a 10' x 8' mudroom, a 11' x 5' covered entry and a third floor shed dormer; Assessor's Plat 32, Lot 115 R-10 District, 15 Opechee Drive, Barrington, RI 02806, requiring dimensional relief for being within 100' of a

wetland/waterbody as well as exceeding lot coverage.

Present: Peter and Jenifer May, 15 Opechee Drive, Barrington, RI

There was no one in the audience to speak for or against this application.

The applicants explained that they are seeking to reconfigure the front of their home, add a two-car garage and a mudroom with a covered entry. They are seeking to create a shelter for the cars and provide safe and shielded access to the home. It was noted that the lot is undersized and the proposed addition would be further away from the water than the existing house.

Additionally, they are seeking to add a shed dormer to the third floor in order to add windows so that space may be used as a bedroom. Mr. Freel read into the record the recommendation of the Conservation Commission, noting that concerns had been raised regarding the fact that this is a newly purchased home, therefore the applicants should have been aware of the constraints of the property. The applicants explained that they had not aware there would be any zoning issues surrounding changes to the front of the property.

MOTION: Mr. Rizzolo moved to approve this application with the following conditions:

„« Hay bales shall be used as an erosion control measure during all

exterior construction, as shown on submitted plan

„« Storage of all construction equipment and materials shall be on street side, away from water.

Mr. Ridlon seconded the motion and it passed on a 4-1 vote, with Mr. Venuti dissenting.

DISCUSSION:

The Board members stated they were in favor of approving the application for the following reasons:

„« The proposal is in harmony with the surrounding neighborhood and with the intent of the Comprehensive Community Plan

„« The proposal is modest in scale for the owners needs

Mr. Venuti stated he was opposed to approving the application for the following reason:

„« The applicants should have been aware of the restraints of the property when they purchased it

REASON FOR DECISION:

It was the judgment of the Board that the standards in Section §185-69 have been met: A) that the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and is not due to an economic disability of the applicant; B) that the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the

applicant to realize greater financial gain; C) that the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the comprehensive Plan; D) that the relief to be granted is the least relief necessary. Additionally, the standards for a dimensional variance set forth in Section §185-71 have been met because the applicant has proved that the hardship to be suffered by the owner, absent granting the relief, would amount to more than a mere inconvenience.

Application #3677, Paul and Doreen Martin, 60 Whipple Avenue, Barrington, RI 02806, applicants and owners, for permission to create an addition as well as remove and replace the garage; Assessor's Plat 22, Lot 259, R-10 District, 60 Whipple Avenue, Barrington, RI 02806, requiring dimensional relief for side yard setback.

Present: Paul and Doreen Martin, 60 Whipple Avenue, Barrington, RI

There was no one in the audience to speak for or against this application.

Mr. Martin explained that they have recently moved in with his mother-in-law in order to help care for her, however the existing home does not have a full bathroom on the first floor and additional living space is needed in order to accommodate the whole family. Therefore they are seeking to create a first floor bedroom as well as a full bathroom. Due to the location of the kitchen window, they are

unable to shift the addition further away from the side yard setback. They are also proposing to change the roofline in order to better accommodate the bedrooms on the second floor.

Additionally, the existing garage has severe termite damage and they have been advised that it is not salvageable. They are seeking to demolish the garage and construct a new garage in the same location and of the same size/dimensions.

MOTION: Mr. Ridlon moved to approve the application with the following condition:

„« New garage must be located no closer to the side yard setback than the existing garage

Mr. Rizzolo seconded the motion and it carried unanimously (5-0).

DISCUSSION:

The Board members stated they were in favor of approving the application for the following reasons:

„« The proposal is in scale with the surrounding neighborhood

„« The family needs more space in order to care for an elderly family member

„« The proposed layout is the most logical due to the constraints of the existing house

„« The existing garage is infested and damaged beyond repair

REASON FOR DECISION:

It was the judgment of the Board that the standards in Section §185-69 have been met: A) that the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and is not due to an economic disability of the applicant; B) that the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain; C) that the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the comprehensive Plan; D) that the relief to be granted is the least relief necessary. Additionally, the standards for a dimensional variance set forth in Section §185-71 have been met because the applicant has proved that the hardship to be suffered by the owner, absent granting the relief, would amount to more than a mere inconvenience.

Application #3678, Barrington Early Childhood Center, 27 College Lane, Barrington, RI 02806, applicant, Gayle J. Justynski, 8 Broadview Drive, Barrington, RI 02806, director, for permission to replace existing sign; Assessor's Plat 15, Lot 201, Open Space Active District, 27 College Lane, Barrington, RI 02806, requiring a Special Use Permit for a legal non-conforming sign in an Open Space IV Active District.

Present: Gayle J. Justynski, director, BECC, 8 Broadview Drive, Barrington, RI

Per Vaage, board member, BECC

There was no one in the audience to speak for or against this application.

The following exhibit was submitted for the record:

„« Photo rendition of a 10i” version of the sign

Before this matter began, Mr. Rizzolo disclosed that he has a child who will be attending the center in the fall.

Ms. Justynski explained that Barrington Early Childhood Center is seeking to replace the existing sign, which has been in place since the 1980i's, with a new sign with the Centeri's new logo. The proposed sign would utilize the existing sign poles, be consistent with the village feel, provide clearer information about the Center and would be construct of a weather-resistant PVC with a wood look.

It was noted that the applicants were before the Board because they are replacing an existing legal non-conforming sign. The Board asked if they had considered either a smaller sign or refacing the existing sign. The applicants explained that the proposed sign shape accommodates their new logo. They have considered a 10-inch sign and submitted a rendition of that sign as exhibit 1. It was also noted that they have received approval from the Technical Review Committee in their July 2012 meeting.

MOTION: Upon a motion Mr. Venuti, with a second by Mr. Blasbalg, the Board voted unanimously (5-0) to approve the application as presented.

DISCUSSION:

The Board members stated they were in favor of approving the application for the following reasons:

„« The proposal would cause no substantial impact to the surrounding area

REASON FOR DECISION:

It was the judgment of the Board that the standards in Section §185-73 have been met: That A). The public convenience and welfare will be substantially served, B). It will be in harmony with the general purpose of this chapter, and with the Comprehensive Community Plan, C). It will not result in or create conditions that will be inimical to the public health, safety, morals and general welfare of the community and D). It will not substantially or permanently injure the appropriate use of the property in the surrounding area or district.

Application #3679, Carver Realty, LLC c/o Dana Gaebe, 36 Ramblin Brook Road, Seekonk, MA 02771, applicant and owner, for permission to unmerge lots; Assessor's Plat 32, Lot 493, R-25 District, Puritan Avenue, Barrington, RI 02806, requiring a Special Use Permit to unmerge lots.

**Present: Dana Gaebe, 36 Ramblin Brook Road, Seekonk, MA
Anthony DeSisto, attorney for Mr. Gaebe, 450 Veterans Memorial
Parkway, Suite 103,
East Providence, RI**

There was no one in the audience to speak for or against this application.

The following exhibit was submitted for the record:

„« Chain of title for the property

Mr. DeSisto began by entering into the record the chain of title for the property. He explained that lot 493 had been two lots, B-1 and B-2 from 1964 until they were merged by Zoning on December 31, 1995. Mr. Gaebe is now seeking to unmerge these lots, recreating the two lots. Lot B-1 would be 17,440 square feet and lot B-2 would be 17,759 square feet. Mr. DeSisto reviewed the lots in the surrounding area and demonstrated that the proposed lots would be of approximately the same size.

MOTION: Mr. Venuti moved to grant this application. Mr. Rizzolo seconded the motion and it carried unanimously (5-0).

DISCUSSION:

The Board members stated they were in favor of approving the

application for the following reasons:

„« The lots, as unmerged, will be in harmony to the surrounding neighborhood

REASON FOR DECISION:

It was the judgment of the Board that the standards in Section §185-73 have been met: That A). The public convenience and welfare will be substantially served, B). It will be in harmony with the general purpose of this chapter, and with the Comprehensive Community Plan, C). It will not result in or create conditions that will be inimical to the public health, safety, morals and general welfare of the community and D). It will not substantially or permanently injure the appropriate use of the property in the surrounding area or district.

Application #3680, Patrick and Debby Perugini, 6 Ferncliff Road, Barrington, RI 02806, applicants and owners, for permission to build a front porch addition; Assessor's Plat 24, Lot 184, R-25 District, 6 Ferncliff Road, Barrington, RI 02806, requiring dimensional relief for front yard setback.

Present: Patrick Perugini, 6 Ferncliff Road, Barrington, RI

There was no one in the audience to speak for or against this application.

Mr. Perugini explained that he is seeking to create a front porch in

order to provide some protection from the elements when entering and exiting the home as well as to provide some space to it and enjoy the property. The Board expressed concern with the plans as presented, noting that there is a great deal of confusion regard the edge of his property, made more complex by the configuration of his lot. The Board felt very strongly that they would not be able to move forward on this application without a survey. Mr. Perugini requested this matter be continued while he obtained a professional survey.

MOTION: Mr. Ridlon moved to continue this application to August 16, 2012 meeting. Mr. Rizzolo seconded the motion and it carried unanimously (5-0).

Application #3681 Claude Chehab, 1 Whipple Avenue, Barrington, RI 02806, applicant and owner, for permission to install a 6-foot fence; Assessor's Plat 22, Lot 250, R-10 District, 1 Whipple Avenue, Barrington, RI 02806, requiring dimensional relief for a 6-foot fence within 30' of Barrington Avenue.

Present: Claude Chehab, 1 Whipple Avenue, Barrington, RI

There was no one in the audience to speak for or against this application.

Ms. Chehab explained that she had installed the fence, unaware of the

height restriction within the front yard setback. She explained that a she was seeking a six-foot in order to provide security for her daughter as well as privacy. Ms. Chehab explained that due to the location of her windows headlights flood her living room and she noted that between the busy intersection and the nearby Department of Public Works this has become a problem. She noted that a four-foot fence would not be high enough to provide her the privacy she is seeking, nor would it allow her daughter to play safely in the yard.

The Board asked if she had considered a four-foot fence with landscaping to help with additional coverage. She replied that it would take a great deal of time for the landscaping to provide the relief she is seeking.

MOTION: Mr. Venuti moved to deny the application. Mr. Rizzolo seconded the motion and it carried (4-1) with Mr. Ridlon dissenting.

DISCUSSION:

The Board members stated they supported denying the application for the following reasons:

„« A six-foot fence is not the least relief necessary

„« The proposal will impair the character of the surrounding neighborhood.

Mr. Ridlon members stated he opposed denying the application for

the following reasons:

„« The applicants concerns regarding the headlights and safety would be well-served by the proposed fence

„« The proposed fence would not obstruct views of drivers in the area.

REASON FOR DECISION:

It was the judgment of the Board that the standards in Section §185-69 have NOT been met: C) that the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the comprehensive Plan;

Application #3682, Claudia Traub, 59 Blanding Avenue, Barrington, RI 02806, applicant and owner, for permission to construct a second floor balcony; Assessor's Plat 1, Lot 312, R-10 District, 59 Blanding Avenue, Barrington, RI 02806, requiring dimensional relief for front yard setback, side yard setback and exceeding lot coverage.

Present: Claudia Traub, 59 Blanding Avenue, Barrington, RI

There was no one in the audience to speak for or against this application.

Ms. Traub stated that she is seeking to create a small second floor deck, noting that she has a very small lot and is trying to maximize

her homes potential. The Board expressed a great deal of concern regarding the fact that the proposed deck would be one-foot from her property line.

MOTION: Mr. Ridlon moved to deny this application. Upon a second from Mr. Venuti, the Board voted unanimously (5-0) to deny.

DISCUSSION:

The Board members stated they supported denying the application for the following reasons:

„« The applicant was seeking the relief for greater financial gain

„« The applicant had not proven a hardship

„« The proposed structure would be one foot from the property line

„« The proposal would not be in harmony with the surrounding neighborhood

REASON FOR DECISION:

It was the judgment of the Board that the standards in Section j±185-69 have NOT been met: B) that the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain; C) that the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the comprehensive Plan; D) that the relief to be granted is the least relief necessary. Additionally, the standards for a dimensional variance set forth in Section j±185-71 have NOT been met because

the applicant has not proved that the hardship to be suffered by the owner, absent granting the relief, would amount to more than a mere inconvenience.

Application #3683, Francine Soldi, 27 Half Mile Road, Barrington, RI 02806, applicant and owner, for permission to construct a 24' x 40' two-story addition; Assessor's Plat 24, Lot 172, R-25 District, 27 Half Mile Road, Barrington, RI 02806, requiring dimensional relief for being within 100' of a wetlands/waterbody.

**Present: Francine Soldi, 27 Half Mile Road, Barrington, RI
Anthony DeSisto, attorney for Mr. Gaebe, 450 Veterans Memorial Parkway, Suite 103,**

East Providence, RI

Shawn Martin, engineer, Fuss & O'Neil

Don Powers, architect, Don Powers Architects

Scott Rabideau, wetlands biologist, Natural Resource Services, Inc.

In the Audience:

David Boyce, Barrington Conservation Commission

Stephen Shechtman, 9 Appain Way, Barrington, RI

Richard Strabley, 31 Half Mile Road, Barrington, RI

Gabrielle Regenstein, 25 Half Mile Road, Barrington, RI

Paul Grossman, 20 Half Mile Road, Barrington, RI

Laurel Pulley, 23 Half Mile Road, Barrington, RI

The following items were submitted as exhibits:

„« CV for Mr. Rabideau

„« Proposed conditions

Mr. DeSisto opened by noting that while the applicant had been before the Board previously, they had withdrawn their application. The plans have been revised and they are now seeking to move forward with this new proposal. Mr. DeSisto also questioned if they would need dimensional relief or a special use permit and Mr. Teitz explained that under the current Zoning Ordinance they would be seeking a dimensional variance.

Mr. Martin reviewed the site plan, noting the location of rain gardens and explaining the storm water management plan. It was noted that there would be less surface runoff with the proposed plan than with the existing conditions. A maintenance plan would be put into place for the rain gardens in order to keep them functioning.

Mr. Rabideau began by explaining that the proposal will not be disturbing any natural vegetation or wildlife habitat. The proposal will be within an area currently mowed and used as lawn. He also noted that the water flow to the wetlands would be improved thanks to the new storm water maintenance plan. Mr. Rabideau went on to state that the house was built in the 1960's, well before the current wetland regulation and it located on a large lot. Therefore the proposal is the least relief necessary as it relates to the unique characteristics of the

lot.

Mr. Powers reviewed the floor plan, explaining that the space would be used as a library with a mezzanine space about it and there would be a wine cellar in the lower level as the applicant has extensive collections of both. The Board confirmed that this was a private residence and the collections would not be available for public use. It was also noted that while this was not currently their primary residence, the owners are planning to make it their primary residence next year. Ms. Soldi stated that this property had been her parent's home and she desires to keep the family home. She asserts that with the current configuration there is no way to house their collections and still be able to utilize the home to her lifestyle needs.

Mr. Freel read into the record a letter in opposition from Andrew Reich, an abutting neighbor. Additionally, Ms. Pulley and Ms. Regenstein spoke in opposition citing concerns with the impact to the wetlands as well as potential flooding issues. It was also noted that the Conservation Commission has recommended disapproval of the proposal, with Mr. Freel reading into the record the Commission's findings. Mr. Shechtman, Mr. Strabley and Mr. Grossman spoke in support of the application.

In summation, Mr. DeSisto stated that application improves the storm water management, improving the property's impact on the wetlands. Additionally, Mr. DeSisto asserted that because this is a

residential use, the 'least relief necessary' standard was subjective and irrelevant to this application.

Upon a motion by Mr. Rizzolo, with a second by Mr. Ridlon, the public participation portion of the meeting was unanimously (5-0) closed. Due to the late hour, the Board felt it would be best to hold a special meeting in order to deliberate and vote on this application.

MOTION: Mr. Rizzolo moved to continue this application to August 7, 2012. Mr. Ridlon seconded the motion and it carried unanimously (5-0).

MINUTES OF THE PREVIOUS MEETING:

A motion was made by Mr. Blasbalg and seconded by Mr. Venuti to accept the June 21, 2012 Zoning Board of Appeals minutes with changes. The motion carried unanimously (5-0).

A motion was made by Mr. Ridlon and seconded by Mr. Blasbalg to accept the June 21, 2012 Zoning Board of Review minutes as written. The motion carried unanimously (5-0).

ADJOURN:

There being no other business, Mr. Venuti moved to adjourn at 12:55 A.M. Mr. Rizzolo seconded the motion and the meeting was adjourned.

Respectfully submitted,

Valerie Carroll, Secretary

Mark Freel, Vice Chairman

cc: Andrew Teitz, solicitor